

REMARKS

A Request for Continued Examination, a Petition for an Extension of Time, the applicable fees, and an Information Disclosure Statement are being filed concurrently herewith. Please charge any deficiency in the fees to Deposit Account No. 04-1073.

Non-elected claims 1-24 and 29-34 have been cancelled. Claim 25 has been amended. Claims 25-28 and 35-37 remain in the application. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

Claims 25-28 and 35-37 are rejected under 35 U.S.C. § 103 as being unpatentable over Sato ('518). Reconsideration is respectfully requested. The Office Action, page 3, contends that the claims "do not require the absence of nitrogen in the first layer grown." Responsive to the Office Action, independent claim 25 has been amended to clarify that the first group III-V compound semiconductor layer does not contain N. With this amendment, the rejection of claim 25 should be withdrawn. Claims 26-28 depend from claim 25 and should be allowable along with claim 25 and for other reasons.

Further, with respect to claim 35, the Office Action acknowledges that Sato fails to disclose the recited step of using a metal organic compound of Al for the source of Al. Please note that Sato is silent about the structure of interposing an Al-poor interface layer between the N-containing active layer and the Al-enriched cladding layer. Hence Sato fails to disclose or suggest a fabrication process that can be successfully achieved by using a metal organic compound of Al as recited in claim 35. The Office Action does not establish a prima facie case of unpatentability with respect to

claim 35, and claim 35 is believed to be in condition for allowance. Claims 36 and 37 depend from claim 35 and should be allowable along with claim 35 and for other reasons.

Allowance of the application is solicited.

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Respectfully submitted,

By 

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